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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 2nd day of June, 1998

Before:

THE HON'BLE MR. JUSTICE R.V. RAVEENDRAN

Writ Petition Nos. 352 and 1210 of 1993

In W.P. No. 352 of 1993

Shri Mariswamy,
s/o Venkatappa,
Occ: Working as Shilpi,
r/o Site No.105,
Kunigal Road, Nelamangala,
Dist: Bangalore Rural Dist.

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..Petitioner

(By Sri Shashdhar S. Karamadi, Advocate)

-Vs-

1. The State of Karnataka,
represented by its Secretary
to the Rural and Panchayat
Department, Vidhana Soudha,
Bangalore-1;
2. Town Development Committee
Represented by its President
Nelamangala Area,
Nelamangala,
Dist: Bangalore;
3. Nelamangala Mandal Panchayath
Nelamangala, Bangalore Dist.,
represented by its Secretary .. Respondents

(By Sri A. Nagarajappa, AGA, for R1;
Sri R. Chandranna, Adv., for R3; R2 Sd.,)

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Writ Petition is filed praying to declare the
action of the R-2 for allotting sites to others is
illegal and contrary to law.

In W.P. Nos. 1210/1993

Shri Prakash,
s/o Venkataramaiah,
Occ: Business,
r/o Site No.59(B),
Jakkasandra Village, Melamangala,
Bangalore Rural District

..Petitioner

(By Sri Shashidhar S. Karamadi, Advocate)

-Vs-

1. The State of Karnataka
Rep. by its Secretary to the
Rural and Panchyatha Department,
Vidhana Soudha,
Bangalore-560 001;
2. Task Force Committee
Ex.Distribution of sites and
Construction of Houses under
"Ashraya" Scheme,
Constituency office of the
Taluk Panchayat,
Nelamangala, B.D.O. Office,
represented by its President;
3. Nelamangala Mandal Panchyathi,
Nelamangala, Bangalore, rep by
its Secretary

..Respondents

(By Sri A. Nagarajappa, AGA, for R1;
Sri R. Chandranna, Adv., for R3, R2 Sd.,)

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Writ Petition is filed praying to declare the
action of the respondent-2 for allotting sites to
others as illegal and contrary to law, etc.,

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All these writ petitions coming on for preliminary
hearing in 'B' Group this day, the Court made the
following:-

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ORDER

Sri A Nagarajappa is directed to take notice for first Respondents.

2. Petitioners claim that Nelamangala Mandal Panchayat (third respondent) formed sites in Sy. Nos. 244 and 245 of Nelamangala Village and Sy.No.8/3 of Jakkasandra Village; that petitioners made applications for allotment of sites; that petitioners in these petitions were allotted site Nos. 105 and 59B as free sites and they were put in possession under Hakku Pathras dated 26-1-1990 copies of which are produced as Annexure-A in the two petitions. Petitioners contend that they have been in possession of the said sites accordingly and have also constructed small huts.

3. When matters stood thus, petitioners claim that second respondent without verifying the facts, passed a resolution dated 31-10-1992 (Annexure-B) proposing to form sites in Sy.Nos. 245 and 8/3 for allotment. According to petitioners, second respondent is proceeding with the formation and distribution of sites in the said

RNR

lands. Hence, petitioners have filed these petitions for declaration that the action of second respondent in allotting sites in the said survey numbers is illegal and contrary to law and for quashing Annexure-B dated 31-10-1992.

4. Annexure-B discloses that the proposal was to form 300 sites in the said survey numbers and allot them to the needy persons. There is nothing to indicate in Annexure-B that the sites are proposed to be formed even in the portions of the survey numbers where sites had already been formed and allotted, in particular sites allotted to petitioners. Having regard to the fact that petitioners have already been issued Hakku Pathras in regard to the sites allotted to them, the second respondent could not reallocate the said sites to any one else, without cancelling the allotments made in favour of petitioners in accordance with law and taking back possession from them. Annexure-B will therefore have to be read as referring to forming and allotment of sites in the said survey numbers excluding the area covered by the sites allotted to the petitioners. If so read, there is nothing irregular in Annexure-B. There is, therefore, no

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cause for the apprehension of the petitioners as they cannot be dispossessed from the sites allotted to them as per Hakku Pathras (Annexure-A) without having recourse to due process of law.

5. Hence, these petitions are disposed of with a direction to respondents not to dispossess the petitioners from their respective sites. The above will not come in the way of respondents of any of them from forming sites in the other portions of the said survey numbers (not covered by sites allotted to petitioners) and making allotments thereof.

6. Sri A. Nagarajappa, AGA, is permitted to file his memo of appearance for first respondent in six weeks.

Sd/-
JUDGE

